

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK MAHAFFEY,

Plaintiff,

v.

Case No. 13-14646

JOSHUA BUSKIRK,
FRANCES HINSLEY, JEFFREY
STIEVE, JACOB, SHARP,
HARRIET SQUIER, and
HARESH B. PANDYA,

HONORABLE AVERN COHN

Defendants.

ORDER
ADOPTING REPORT AND RECOMMENDATION (Doc. 72)
AND
GRANTING HARESH PANDYA'S SECOND MOTION FOR SUMMARY JUDGMENT
(Doc. 46)
AND
GRANTING JEFFREY STIEVE'S MOTION FOR SUMMARY JUDGMENT (Doc. 54)

I.

This is a pro se prisoner civil rights case. Plaintiff is a former inmate of the Michigan Department of Corrections (MDOC).¹ He asserts a claim under 42 U.S.C. § 1983 against defendants claiming a violation of his Eighth Amendment rights due to inadequate medical care for the treatment of a back condition. The matter has been referred to a magistrate judge for all pretrial proceedings. (Doc. 24).

¹A search of Michigan's offender tracking systems shows that plaintiff was discharged in January of 2015. Plaintiff has also filed a change of address, indicating he now resides in Florida. See Doc. 69.

Plaintiff initially named eleven (11) defendants. Following motion practice, the defendants are: Joshua Buskirk, Harriet Squier, Haresh Pandya, Frances Hinsley, Jeffrey Stieve, Sharp and Jacob.²

Pandya filed a second motion for summary judgment³ and Stieve filed a motion for summary judgment. (Docs. 46, 54). On February 13, 2015, the magistrate judge issued a report and recommendation, recommending that both motions be granted. (Doc. 72).

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

However, the Court has reviewed the MJRR and agrees with the magistrate judge's analysis and recommendations. As the magistrate judge fully explained, plaintiff has not made out a viable Eighth Amendment claim against either Pandya or Stieve.

²Regarding the remaining defendants, Buskirk and Squire have filed a motion for summary judgment (Doc. 63). It remains pending before the magistrate judge. As to Sharp and Jacob, the MDOC has said they do not employ either of them. See Docs. 40, 41. As to Francis Hinsley, service was attempted but not successful. See Doc. 13.

³Pandya previously moved for summary judgment on plaintiff's official capacity claim against him for money damages. The Court granted the motion. (Doc. 44).

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Pandya's second motion for summary judgment is GRANTED. Stieve's motion for summary judgment is GRANTED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: March 24, 2015
Detroit, MI

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, March 24, 2015, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160